

CITY OF FRANKLIN
PLAN COMMISSION MEETING*
FRANKLIN CITY HALL COUNCIL CHAMBERS
9229 W. LOOMIS ROAD, FRANKLIN, WISCONSIN
AGENDA
THURSDAY, JUNE 4, 2020, 7:00 P.M.

[note: The Strauss Brands LLC meat processing facility Special Use application and Public Hearing thereon and the Site Plan application related thereto item is not on this agenda as it remains a work in process at this time.]

The Facebook page for the Economic Development Commission
<https://www.facebook.com/forwardfranklin/> will be live streaming the Plan Commission meeting so that the public will be able to watch and listen to the meeting.

- A. **Call to Order and Roll Call**
- B. **Approval of Minutes**
 - 1. Approval of regular meeting of May 21, 2020.
- C. **Public Hearing Business Matters** (action may be taken on all matters following the respective Public Hearing thereon)
- D. **Business Matters** (no Public Hearing is required upon the following matters; action may be taken on all matters)
 - 1. **SCOTT A. MCELROY AND ANDREA L. MCELROY FENCE INSTALLATION ON A LOT WITHIN A RESIDENTIAL SUBDIVISION.**
Release of Easement Restriction application by Scott A. McElroy and Andrea L. McElroy, to allow for the encroachment of a black, aluminum, five foot tall colonial fence within the 30 foot “Landscape Planting Buffer” located along the rear of the property line which abuts South 68th Street (the “Landscape Planting Buffer” extends approximately 866 feet along South 68th Street and overlaps 8 lots in Dover Hill Subdivision), property located at 7244 South Dover Hill Court, zoned Planned Development District No. 17 (Dover Hill Subdivision/Westminster Condominiums); Tax Key No. 756-0220-000.
- E. **Adjournment**

*Supporting documentation and details of these agenda items are available at City hall during normal business hours.

**Notice is given that a majority of the Common Council may attend this meeting to gather information about an agenda item over which they have decision-making responsibility. This may constitute a meeting of the Common Council per *State ex rel. Badke v. Greendale Village Board*, even though the Common Council will not take formal action at this meeting.

[Note: Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information, contact the City Clerk’s office at (414) 425-7500.]

Franklin Plan Commission Agenda

6/4/20

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REMINDERS:

Next Regular Plan Commission Meeting: June 18, 2020

City of Franklin
Plan Commission Meeting
May 21, 2020
Minutes

unapproved

A. Call to Order and Roll Call

Mayor Steve Olson called the May 21, 2020 regular Plan Commission meeting to order at 7:02 p.m. in the Council Chambers at Franklin City Hall, 9229 West Loomis Road, Franklin, Wisconsin.

Present were Mayor Steve Olson, Commissioners Patrick Leon, Adam Burckhardt, Patricia Hogan and Kevin Haley, Alderman Mark Dandrea and City Engineer Glen Morrow. Also present were Associate Planner Régulo Martínez, Assistant Planner Marion Ecks, City Development Director Calli Berg and City Attorney Jesse Wesolowski and Alderwoman Kristen Wilhelm.

B. Approval of Minutes

1. Regular Meeting of May 7, 2020. Alderman Dandrea moved and Commissioner Leon seconded approval of the May 7, 2020 regular meeting minutes. On voice vote, all voted 'aye'. Motion carried (6-0-0).

C. Public Hearing Business Matters

1. ENTERPRISE RENT-A-CAR AUTOMOBILE RENTAL BUSINESS INSIDE OF EWALD TRUCK CENTER. Special Use and Site Plan applications by Enterprise Rent-A-Car Company of Wisconsin, LLC (CBDT 6321 Real Estate, LLC, property owner), to allow for an 832 square foot area of office space inside of the Ewald Truck Center (the space was previously occupied by Mayfair Rent-A-Car, which Enterprise Holdings acquired in 2018) for automobile rentals to customers of collision centers, dealerships and business travelers to local retail customers having their vehicles serviced in the area (1-25 vehicles on site at a time), with hours of operation Monday through Friday from 7:30 a.m. to 5:00 p.m. and Saturdays from 9:00 a.m. to 12:00 noon; the Site Plan includes updating the interior office space with a demising wall to separate the Truck Center and the Enterprise Rent-A-Car office space, and addition of a manager's office, property

Assistant Planner Marion Ecks presented the request by Enterprise Rent-A-Car Company of Wisconsin, LLC (CBDT 6321 Real Estate, LLC, property owner), to allow for an 832 square foot area of office space inside of the Ewald Truck Center (the space was previously occupied by Mayfair Rent-A-Car, which Enterprise Holdings acquired in 2018) for automobile rentals to customers of collision centers, dealerships and business travelers to local retail customers having their vehicles serviced in the area (1-25 vehicles on site at a time), with hours of operation Monday through Friday from 7:30 a.m. to 5:00 p.m. and Saturdays from 9:00 a.m. to 12:00 noon; the Site Plan includes updating the interior office space with a demising wall to separate the Truck Center and the Enterprise Rent-A-Car office space, and addition of a manager's office, property located at 6321 South 108th Street, zoned M-1 Limited Industrial District and C-1 Conservancy District; Tax Key No. 704-9973-000.

The Official Notice of Public hearing was read in to the record by Associate Planner Régulo Martínez and the Public Hearing was opened at 7:08 p.m. and closed at 7:10 p.m.

located at 6321 South 108th Street, zoned M-1 Limited Industrial District and C-1 Conservancy District; Tax Key No. 704-9973-000.

Special Use and Site Plan

The public hearing was continued to the June 18, 2020, Plan Commission meeting.

D. Business Matters

1. **ZACHARY D. PAWLOWSKI AND LAUREN M. PAWLOWSKI LAND COMBINATION.** Land Combination application by Zachary D. Pawlowski and Lauren M. Pawlowski for combining a parcel of land located at 6932 South Tumblecreek Drive (Lot 37 of the Tumblecreek Subdivision) with Outlot 30 of Plat of Outlots 1 through 5 of Tumblecreek Subdivision, for construction of a shed that will be located within 5 feet of Outlot 30, property zoned Planned Development District No. 2 (Tumblecreek/Hidden Lakes Development); Tax Key Nos. 739-0120-000 and 739-0037-000 (Outlot 30).

Associate Planner Régulo Martínez presented the request by Zachary D. Pawlowski and Lauren M. Pawlowski for combining a parcel of land located at 6932 South Tumblecreek Drive (Lot 37 of the Tumblecreek Subdivision) with Outlot 30 of Plat of Outlots 1 through 5 of Tumblecreek Subdivision, for construction of a shed that will be located within 5 feet of Outlot 30, property zoned Planned Development District No. 2 (Tumblecreek/Hidden Lakes Development); Tax Key Nos. 739-0120-000 and 739-0037-000 (Outlot 30).

City Engineer Morrow moved and Commissioner Leon seconded a motion to recommend approval of a Resolution conditionally approving a land combination for Tax Key Nos. 739-0120-000 and 739-0037-000 (6932 South Tumblecreek Drive and Outlot 30 of plat of Outlots 1 through 5 of Tumblecreek). On voice vote, all voted 'aye'. Motion carried (6-0-0).

2. **PAYNE AND DOLAN, INC. QUARRY BIENNIAL REPORT TO THE PLAN COMMISSION**

Associate Planner Régulo Martínez presented updates to the Plan Commission. Clint Wenninger presented the **PAYNE AND DOLAN, INC. QUARRY BIENNIAL REPORT TO THE PLAN COMMISSION.**

Commissioner Hogan moved and Alderman Dandrea seconded a motion to receive and place on file the Payne and Dolan, Inc. Quarry Biennial report to the Plan Commission. On voice vote, all voted 'aye'. Motion carried (6-0-0).

E. Adjournment

Commissioner Hogan moved and Commissioner Leon seconded a motion to adjourn the Plan Commission meeting of May 21, 2020 at 7:40 p.m. On voice vote, all voted 'aye'; motion carried. (6-0-0).



CITY OF FRANKLIN



REPORT TO THE PLAN COMMISSION

Meeting of June 4, 2020

Miscellaneous application – Fence encroachment into a landscape bufferyard easement

RECOMMENDATION: City Development Staff recommends approval of a Miscellaneous application to allow the encroachment of a fence into a landscape bufferyard easement, subject to the conditions set forth in the attached resolution.

Project Name:	McElroy, fence encroachment into a bufferyard easement.
Project Address:	7244 S. Dover Hill Ct.
Property Owner:	Scott and Andrea McElroy.
Applicant:	Scott and Andrea McElroy.
Zoning:	PDD No. 17 Dover Hill – Westminster
Use of Surrounding Properties:	Residential – single family
Comprehensive Plan:	Residential
Applicant Action Requested:	Approval of Miscellaneous application

Introduction:

On March 23, 2020, Scott and Andrea McElroy submitted a Miscellaneous application to allow for the encroachment of a fence into a landscape bufferyard easement. The subject property is located in the Dover Hill subdivision, platted in 1993. Per the subdivision plat, the landscape bufferyard easement is 30-foot wide and extends approximately 866 feet along S 68th Street, the easement overlaps 8 lots of this subdivision.

It is noted that this subdivision does not have a Homeowners Association (HOA) in operation.

The proposed black aluminum fence would enclose the rear yard of the property and would be 5-foot tall. The fence would be setback 3 feet from the rear property line (abutting 68th Street). According to the submitted materials, the purpose of this fence is to keep the family pet(s) in the backyard.

Analysis:

The subject property is a double frontage lot, with the front located in Dover Hill Ct and the rear in 68th street. The proposed fence complies with the Unified Development Ordinance (UDO) §15-3.0802.E.2.b which states as follows:

In the case of a double-frontage lot, fences may be constructed to locate property lines in the yard opposite the front of the residence, provided such fence is constructed and maintained in compliance with all other applicable provisions of § 15-3.0802E.

However, the fence would encroach into a landscape bufferyard easement depicted in the Dover Hill subdivision plat. Even though staff did not find a separate document for this particular easement (if

any), it is a valid easement because it is graphically delineated in the recorded plat, which is consistent with the bufferyard definition.

According to the UDO definition for bufferyard, fences may be permitted within a bufferyard:

Bufferyard

An area of land within the boundaries of a lot or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or using trees, shrubs, fences, and/or berms, designed to limit continuously the view and/or sound from the lot or site to adjacent lots or sites. Bufferyards are typically defined by a delineated easement graphically indicated on the face of the Site Plan, Landscape Plan, Certified Survey Map, Subdivision Plat, or Condominium Plat. [emphasis added]

In summary, staff has no objections to the fence encroachment into this landscape bufferyard easement. However, staff is concerned about the existing shed in the rear yard and is recommending its removal or relocation for the following reasons:

1. This shed does not comply with 40-foot rear setback, as required by the PDD Ordinance 92-1234, §13-19.D.3. The current location of this shed is approximately 11 feet from the rear property line, based on aerial imagery. The area of this shed is approximately 225 square feet.
2. This shed is encroaching into the landscape bufferyard easement and it is not a permitted obstruction in accordance with the bufferyard definition.
3. This shed was installed without a building permit, see attached e-mail from the Department of Inspection Services.

STAFF RECOMMENDATION:

City Development Staff recommends approval of a Miscellaneous application to allow the encroachment of a fence into a landscape bufferyard easement, subject to the removal or relocation of the existing nonconforming shed and other conditions set forth in the attached resolution.

RESOLUTION NO. 2020-____

A RESOLUTION AUTHORIZING THE INSTALLATION OF A FENCE
WITHIN THE 30 FOOT LANDSCAPE PLANTING BUFFER PLAT
RESTRICTION, UPON LOT 8 IN DOVER HILL SUBDIVISION
(7244 SOUTH DOVER HILL COURT)
(SCOTT A. MCELROY AND ANDREA L. MCELROY, APPLICANTS)

WHEREAS, the Dover Hill Subdivision Plat prohibits the building of structures within the 30 foot “Landscape Planting Buffer” described thereon; and

WHEREAS, Scott A. McElroy and Andrea L. McElroy having applied for a release of the 30 foot “Landscape Planting Buffer” easement restriction upon their property to the extent necessary to install a black, aluminum, five foot tall colonial fence within the 30 Foot “Landscape Planting Buffer” located along the rear of the property line which abuts South 68th Street (the “Landscape Planting Buffer” extends approximately 866 feet along South 68th Street and overlaps 8 lots in Dover Hill Subdivision), property located at 7244 South Dover Hill Court, zoned Planned Development District No. 17 (Dover Hill Subdivision/Westminster Condominiums), bearing Tax Key No. 756-0220-000, more particularly described as follows:

Lot 8 in DOVER HILL, being a subdivision of a part of the Northeast 1/4 of the Northwest 1/4 of Section 10, Town 5 North, Range 21 East, in the City of Franklin, Milwaukee County, Wisconsin; and

WHEREAS, the 30 foot “Landscape Planting Buffer” easement restriction upon the Final Plat for Dover Hill Subdivision and its accompanying restriction of the building of structures is a restriction which was imposed by the Franklin Common Council in its approval of the Final Plat; and

WHEREAS, Wis. Stats. § 236.293 provides in part that any restriction placed on platted land by covenant, grant of easement or in any other manner, which was required by a public body vests in the public body the right to enforce the restriction at law or in equity and that the restriction may be released or waived in writing by the public body having the right of enforcement; and

WHEREAS, the Common Council having considered the request for the release of the 30 foot “Landscape Planting Buffer” easement restriction only so as to allow for the subject fence installation, and having considered the proposed location of and type of fence to be installed upon the subject property in conjunction with existing and required landscaping on the property, and that the proposed fence will not be readily visible from the adjoining highway or create any adverse impact upon the aesthetic or buffering purposes of

the landscape bufferyard.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the installation of the proposed fence of the type and specifications as described and only upon the location as set forth within the plans accompanying the application of Scott A. McElroy and Andrea L. McElroy filed on March 23, 2020, be and the same is hereby authorized and approved and that the "Landscape Planting Buffer" easement restriction as it would otherwise apply to such installation upon the subject property only, is hereby waived and released, subject to the following conditions:

1. The subject fence shall not be constructed without first obtaining a fence permit from the Inspection Services Department.
2. The applicant shall remove or relocate the existing nonconforming shed to comply with the setbacks and easement restrictions of the Dover Hill subdivision plat and Planned Development District No. 17, prior to the issuance of a fence permit. A building permit is required for relocation of the subject shed.
3. The subject fence shall not impede the stormwater drainage way.
4. This Resolution is not approving the removal of any landscaping features nor modifications to the topography within the landscape bufferyard easement area.

BE IT FURTHER RESOLVED, that the applicant shall further obtain all required permit(s) for the installation of the subject fence and that the subject fence shall be installed pursuant to such permit(s) within one year of the date hereof, or all approvals granted hereunder shall be null and void.

BE IT FINALLY RESOLVED, that the City Clerk be and the same is hereby directed to obtain the recording of this Resolution with the Office of the Register of Deeds for Milwaukee County.

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2020.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2020.

APPROVED:

Stephen R. Olson, Mayor

RESOLUTION NO. 2020-_____

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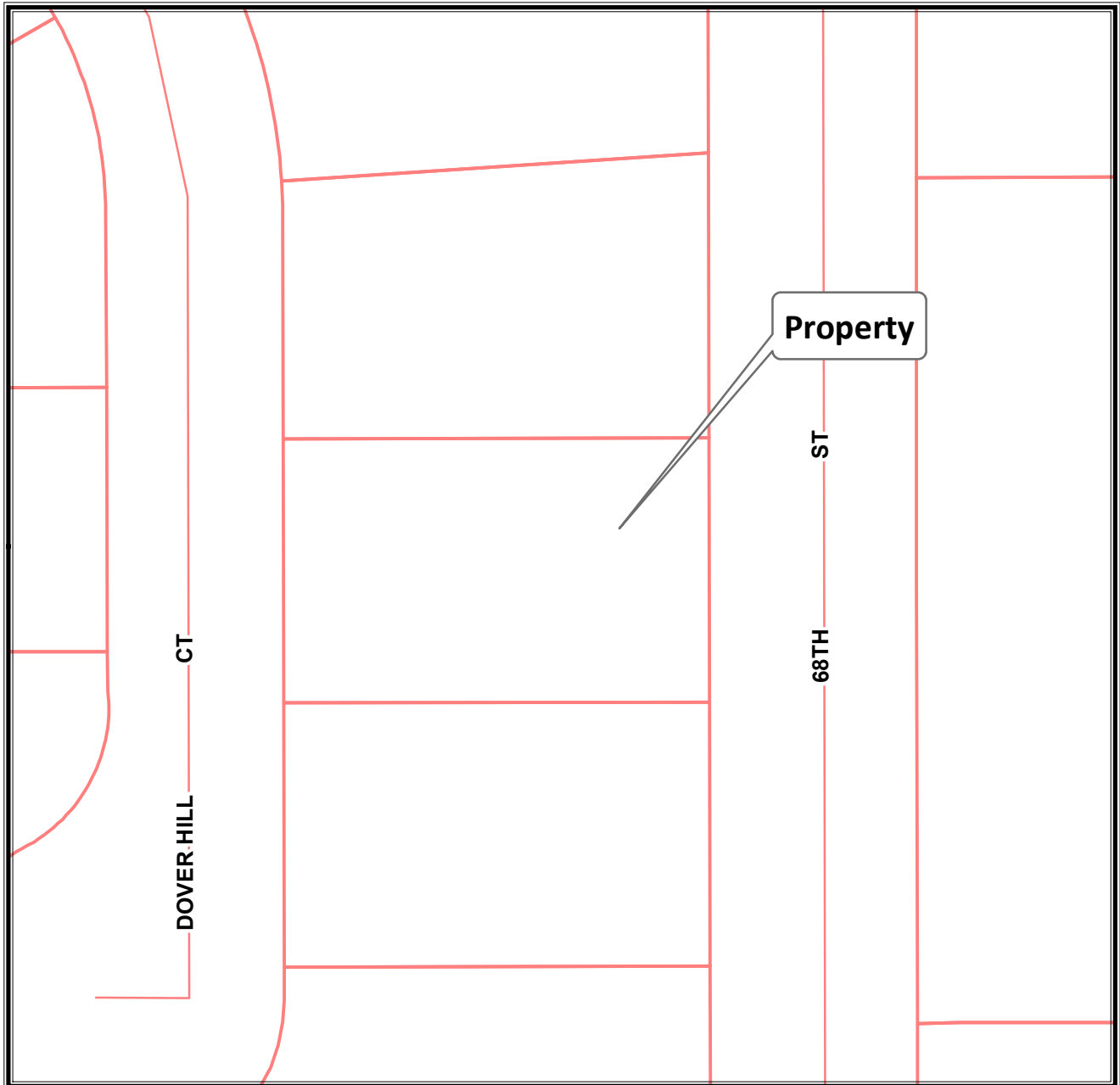
ATTEST:

Sandra L. Wesolowski, City Clerk

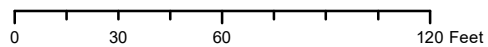
AYES _____ NOES _____ ABSENT _____



7244 S Dover Hill Ct
TKN: 756 0220 000



Planning Department
(414) 425-4024

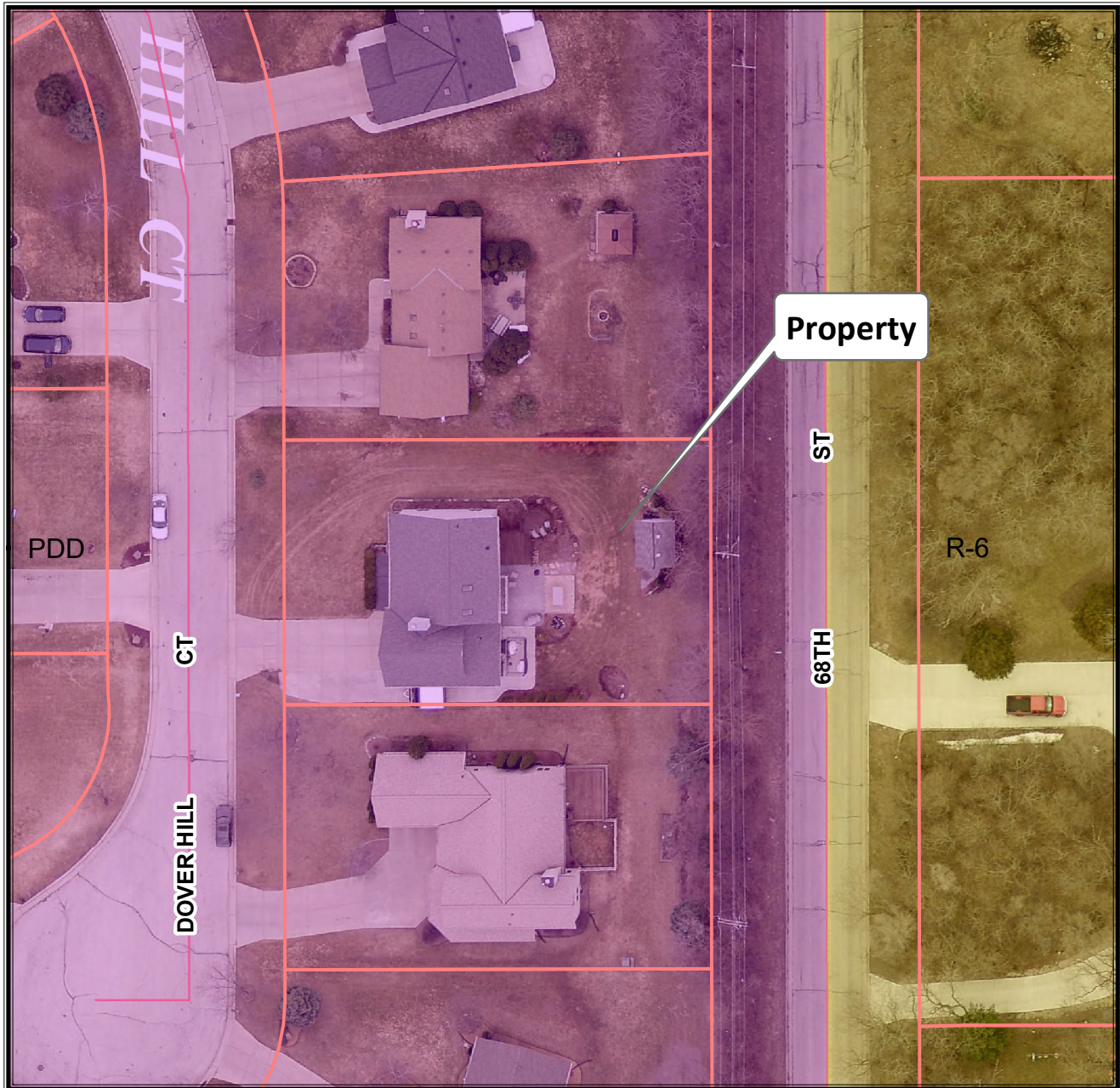


This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.





7244 S Dover Hill Ct
TKN: 756 0220 000



Planning Department
(414) 425-4024

0 30 60 120 Feet

This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.



Regulo Martinez-Montilva

From: Dale Hochevar
Sent: Tuesday, May 5, 2020 8:10 AM
To: Regulo Martinez-Montilva
Subject: RE: 7244 S Dover Hill Ct

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Regulo,

There is not a permit in the file for a shed for this address.

Thanks!

Dale

From: Regulo Martinez-Montilva
Sent: Monday, May 4, 2020 3:32 PM
To: Dale Hochevar <DHochevar@franklinwi.gov>
Subject: 7244 S Dover Hill Ct

Dale,

We are reviewing an application to allow for the encroachment of a fence into a landscape bufferyard easement. I noticed a shed in the rear yard that is likely located in the easement area. I did not find a permit in Govern, do you have a permit record of this shed in your files?

Thanks,

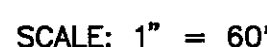
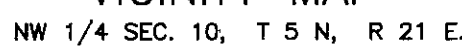
Régulo Martínez-Montilva, AICP
Associate Planner - Department of City Development
City of Franklin
9229 W. Loomis Road
Franklin, WI 53132
Phone (414) 425-4024 / 427-7564
RMartinez-Montilva@franklinwi.gov



CONC. MON. WITH BRASS CAP
NE. COR OF NW. 1/4
SEC. 10, T5N, R21E.
N: 340,277.99
E: 2,535,944.18

WEST RAWSON AVENUE

30' PRIVATE
EASEMENT BY
INSTRUMENT.



INDICATES 2" IRON PIPE, WT. 3.65LBS. PER LINEAL FOOT, 30' IN LENGTH, SET.
ALL OTHER LOT AND OUTLOT CORNERS HAVE 1"x24" IRON PIPE, WT. 1.13 LBS. PER LINEAL FOOT, SET.
ALL DIMENSIONS MEASURED AND SHOWN TO THE NEAREST HUNDRETH OF A FOOT
PLAT REFERENCED TO THE WISCONSIN STATE PLANE COORDINATE SYSTEM (SOUTH ZONE)

NOTE: LOT 1, 5 THRU 11 INCLUSIVE, RESTRICTED TO NO VEHICULAR ACCESS TO SOUTH 68th STREET.

NOTE: LOT 3, 18, 19 AND 28 RESTRICTED TO NO
VEHICULAR ACCESS TO BRUNN DRIVE.

THIS INSTRUMENT WAS DRAFTED BY KENNETH E. BERKE - WISCONSIN REGISTERED LAND SURVEYOR S - 107

REVISED THIS 8th DAY OF SEPTEMBER, 1993
REVISED THIS 24 DAY OF JAN., 1994

REVISED THIS 24 DAY OF JAN., 1994

LINDENER DRIVE

CONC. MON. _____
WITH BRASS CAP
SE. COR OF NW. 1/4
SEC. 10, T5N, R21E.
N: 337,633.36
E: 2,535,949.47

NSE NO. 920176

DOVER HILL

SHEET 2 OF 2

BEING A SUBDIVISION OF A PART OF THE NE 1/4 OF THE NW 1/4
OF SECTION 10, TOWN 5 NORTH, RANGE 21 EAST, IN THE CITY OF
FRANKLIN, MILWAUKEE COUNTY, WISCONSIN.

SURVEYOR'S CERTIFICATE

I, KENNETH E. BERKE, A REGISTERED WISCONSIN LAND SURVEYOR, DO HEREBY CERTIFY:

THAT I HAVE SURVEYED, DIVIDED AND MAPPED DOVER HILL, BEING A SUBDIVISION OF A PART OF THE NE 1/4 OF THE NW 1/4 OF SECTION 10, T 5 N, R 21 E, IN THE CITY OF FRANKLIN, MILWAUKEE COUNTY, WISCONSIN, BOUNDED AND DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHEAST CORNER OF SAID NW 1/4 SECTION;
THENCE SOUTH 00° 06' 53" EAST ALONG THE EAST LINE OF SAID 1/4 SECTION 405.00 FT. TO THE POINT OF BEGINNING OF THE LANDS TO BE DESCRIBED;
THENCE CONTINUING SOUTH 00° 06' 53" EAST ALONG SAID EAST LINE 917.24 FT. TO A POINT;
THENCE SOUTH 89° 29' 14" WEST 785.99 FT. TO A POINT;
THENCE NORTH 00° 21' 37" EAST 265.27 FT. TO A POINT;
THENCE NORTH 31° 31' 43" EAST 60.17 FT. TO A POINT;
THENCE NORTH 05° 44' 40" WEST 204.23 FT. TO A POINT;
THENCE NORTH 84° 15' 20" EAST 25.70 FT. TO A POINT;
THENCE NORTHEASTERLY 16.31 FT. ALONG THE ARC OF A CURVE WHOSE CENTER LIES TO THE NORTHWEST, WHOSE RADIUS IS 260.00 FT. AND WHOSE CHORD BEARS NORTH 82° 27' 30" EAST 16.31 FT. TO A POINT;
THENCE NORTH 09° 20' 20" WEST 145.00 FT. TO A POINT;
THENCE NORTH 66° 46' 28" EAST 55.20 FT. TO A POINT;
THENCE NORTH 47° 13' 49" EAST 67.48 FT. TO A POINT;
THENCE NORTH 32° 23' 32" EAST 208.15 FT. TO A POINT;
THENCE NORTH 44° 35' 26" EAST 114.34 FT. TO A POINT;
THENCE NORTH 58° 29' 40" EAST 114.13 FT. TO A POINT;
THENCE NORTH 76° 00' 30" EAST 131.95 FT. TO A POINT;
THENCE SOUTH 00° 06' 53" EAST 130.00 FT. TO A POINT;
THENCE NORTHEASTERLY 20.35 FT. ALONG THE ARC OF A CURVE WHOSE CENTER LIES TO THE SOUTHEAST WHOSE RADIUS IS 340.00 FT. AND WHOSE CHORD BEARS NORTH 79° 16' 03.5" EAST 20.35 FT. TO A POINT;
THENCE SOUTH 00° 06' 53" EAST 36.30 FT. TO A POINT;
THENCE NORTH 89° 26' 56" EAST 215.00 FT. TO THE POINT OF BEGINNING.
EXCEPTING AND DEDICATING THEREFROM LANDS FOR PUBLIC STREET PURPOSES AS SHOWN.

THAT I HAVE MADE THIS SURVEY, LAND DIVISION AND PLAT BY THE DIRECTION OF DOVER HILL, A PARTNERSHIP.

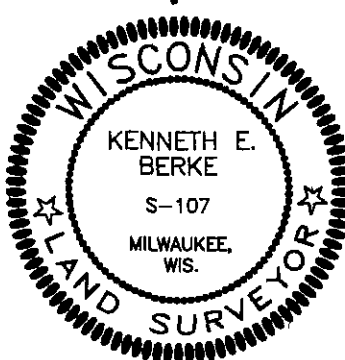
THAT SUCH PLAT IS A CORRECT REPRESENTATION OF ALL THE EXTERIOR BOUNDARIES OF THE LAND SURVEYED, AND THE LAND DIVISION THEREOF MADE.

THAT I HAVE FULLY COMPLIED WITH THE PROVISIONS OF CHAPTER 236 OF THE WISCONSIN STATUTES AND THE SUBDIVISION REGULATIONS OF THE CITY OF FRANKLIN IN SURVEYING, DIVIDING AND MAPPING THE SAME.

DATED THIS 23RD DAY OF JUNE, 1993
REVISED THIS 8TH DAY OF SEPTEMBER, 1993
REVISED THIS 10TH DAY OF JANUARY, 1994
REVISED THIS _____ DAY OF _____, 1994

Kenneth E. Berke
KENNETH E. BERKE
WISCONSIN REGISTERED LAND SURVEYOR S-107

(SEAL)



OWNER'S CERTIFICATE

DOVER HILL, A PARTNERSHIP, AS OWNERS, DO HEREBY CERTIFY THAT THEY CAUSED THE LAND DESCRIBED IN THE FOREGOING AFFIDAVIT OF KENNETH E. BERKE, SURVEYOR, TO BE SURVEYED, DIVIDED, MAPPED AND DEDICATED AS REPRESENTED ON THIS PLAT.

DOVER HILL, A PARTNERSHIP, AS OWNERS DO FURTHER CERTIFY THAT THIS PLAT IS REQUIRED BY S.236.10 OR 236.12 TO BE SUBMITTED TO THE FOLLOWING FOR APPROVAL OR OBJECTION:

- (1) DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
- (2) MILWAUKEE COUNTY
- (3) CITY OF FRANKLIN

WITNESS THE HANDS AND SEALS OF SAID PARTNERS, THIS 23 DAY OF JUNE, 1993

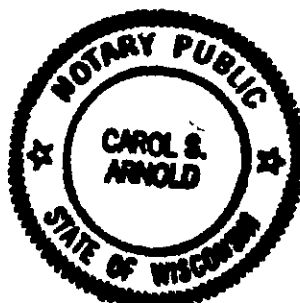
IN THE PRESENCE OF:
Paul J. Burbach Jr.
Carol S. Arnold
CAROL S. ARNOLD

DOVER HILL, A PARTNERSHIP
Paul J. Burbach Jr.
PAUL J. BURBACH, GENERAL PARTNER
Terrance J. Aiken
TERRANCE J. AIKEN, GENERAL PARTNER

STATE OF WISCONSIN)
MILWAUKEE COUNTY (

PERSONALLY CAME BEFORE ME THIS 23rd DAY OF June, 1993 THE ABOVE NAMED PAUL J. BURBACH, AND TERRANCE J. AIKEN, AS PARTNERS IN DOVER HILL, A PARTNERSHIP, TO ME KNOWN TO BE THE PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THE SAME.

Carol S. Arnold
NOTARY PUBLIC, STATE OF WISCONSIN
MY COMMISSION EXPIRES 10/12/95
MY COMMISSION IS PERMANENT.



CONSENT OF CORPORATE MORTGAGEE

UNIVERSITY NATIONAL BANK, A CORPORATION DULY ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF WISCONSIN, MORTGAGEE OF THE ABOVE DESCRIBED LAND DOES HEREBY CONSENT TO THE SURVEYING, DIVIDING, MAPPING, RESTRICTING AND DEDICATION OF THE LAND DESCRIBED IN THE FOREGOING CERTIFICATE OF KENNETH E. BERKE, SURVEYOR AND DOES HEREBY CONSENT TO THE ABOVE CERTIFICATE OF DOVER HILL, A PARTNERSHIP.

IN WITNESS WHEREOF, THE SAID UNIVERSITY NATIONAL BANK HAS CAUSED THESE PRESENTS TO BE SIGNED BY PHILIP HUDSON ITS PRESIDENT AND COUNTERSIGNED BY DAVID P. JOHNSON ITS ASST. VICE PRESIDENT AT MILWAUKEE, WISCONSIN THIS 24 DAY OF JUNE, 1993.

IN THE PRESENCE OF:

Philip F. Hudson
David P. Johnson

Philip F. Hudson
PHILIP F. HUDSON, PRESIDENT
COUNTERSIGNED:
David P. Johnson

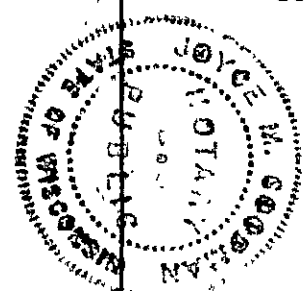
STATE OF WISCONSIN)
MILWAUKEE COUNTY (

PERSONALLY CAME BEFORE ME THIS 24 DAY OF JUNE, 1993

PHILIP F. HUDSON AND DAVID P. JOHNSON OF THE ABOVE NAMED CORPORATION TO ME KNOWN TO BE THE PERSONS WHO EXECUTED THE FOREGOING INSTRUMENT AND TO ME KNOWN TO BE SUCH PRESIDENT AND ASST. VICE PRESIDENT OF THE ABOVE NAMED CORPORATION AND ACKNOWLEDGED THAT THEY EXECUTED THE FOREGOING INSTRUMENT AS SUCH OFFICERS AS THE DEED OF SUCH CORPORATION, BY ITS AUTHORITY.

James M. Hartmann
NOTARY PUBLIC, STATE OF WISCONSIN
MY COMMISSION EXPIRES JUNE 15, 1997
MY COMMISSION IS PERMANENT.

(SEAL)



national survey & engineering
4125 north 124th street • brookfield, wisconsin, 53008-0444
phone 414/781-1000 • fax 414/781-8486 • data 414/781-0514

MEMORANDUM

Date: May 8, 2020
To: Scott and Andrea McElroy
From: Department of City Development
RE: Miscellaneous application - 7244 S. Dover Hill Ct.

On March 23, 2020, Scott and Andrea McElroy submitted a Miscellaneous application to allow the encroachment of a fence into a landscape bufferyard easement, review comments are as follows:

City Development Department comments

1. Per Franklin Property Viewer aerial imagery, an existing shed is encroaching into the 30-foot landscape bufferyard easement. Staff did not find records of this encroachment in the City Development Department files. It is noted that this shed is not allowed in such easement, unless approved by the Common Council and/or Homeowners Association. Please clarify.
2. Have you contacted the Homeowners Association about this fence project? Fencing may require a separate approval from the Homeowners Association.
3. Please note that in addition to this application, a building permit would be required prior to commencement of work. For more information, call the Inspection Services Department at 414-425-0084.
4. Are you proposing any landscaping associated with this fence?
5. Any separation between the fence and the property line? If so, please add dimensions to the sketch plan.

Engineering Department comments

6. Landscape easement (or sound barrier, abutting South 68th Street) was created per the UDO requirement? We have no files of this easement. The City may not have the authority to approve their request. They need to check the HOA documents regarding this easement.
7. The proposed fence should not impede the stormwater drainage way.

Fire Department comments

8. The fire department has no comments.

Police Department comments

9. The police Department has no objections.

May 11, 2020

To: Department of City Development

From: Scott and Andrea McElroy

RE: Miscellaneous application – 7244 S. Dover Hill Ct.

To Whom it May Concern:

On May 8, 2020 we were provided with “Staff Comments” regarding our Miscellaneous application submitted March 23, 2020 to allow us to place a fence on the “landscape bufferyard easement”. Below is our response to the comments received.

City Development Department comments

1. Per Franklin Property Viewer aerial imagery, an existing shed is encroaching into the 30-foot landscape bufferyard easement. Staff did not find records of this encroachment in the City Development Department files. It is noted that this shed is not allowed in such easement, unless approved by the Common Council and/or Homeowners Association. Please clarify.

Response

- a. *There is a shed in what we now understand is a “bufferyard easement” of 30 feet from the property line. The shed was built shortly after we moved into the house in 1997; we were unaware of an easement at that time. We added 3 arborvitaes to flank each side with a decorative pathway on each side as well. The design was created to be a similar style to the house. We were unaware of the need for special application to add a 10’ X 14’ shed on our property.*
 - b. *Other homeowners have also used the easement to place sheds, hot tubs, garden beds, etc. in their yard.*
 - c. *We respectfully suggest that the shed is immaterial to the request to use our full back yard to place a fence; the 30’ easement is ½ of the back yard and comes past where the yard begins to slope for the sound barrier to 68th St.*
2. Have you contacted the Homeowners Association about this fence project? Fencing may require a separate approval from the Homeowners Association.

Response

- a. *There is no homeowner association for Dover Hill. Karek Builders and Regulo Martinez-Montilva have confirmed.*
 - b. *The builder has no record of the original covenants and restrictions that may have been in place prior to the completion of this subdivision. Their records date back only to 2003 per record retention policy. They informed me that any covenants and restrictions would have been dissolved since no formal association as created and filed with the City.*
3. Please note that in addition to this application, a building permit would be required prior to commencement of work. For more information, call the Inspection Services Department at 414-425-0084.

Response:

- a. *The City of Franklin Building Permit application has been completed and will be submitted the week of 5/11/2020.*

4. Are you proposing any landscaping associated with this fence?

Response:

No

5. Any separation between the fence and the property line? If so, please add dimensions to the sketch plan.

Response:

- a. Dimensions added*
 - i. South side = 6" (inches)*
 - ii. Back (East) = 3 feet*
 - iii. North = 3 feet*

Engineering Department comments

6. Landscape easement (or sound barrier, abutting South 68th Street) was created per the UDO requirement? We have no files of this easement. **The City may not have the authority to approve their request.** They need to check the HOA documents regarding this easement.

Response:

- a. We do not know if the easement was created per the UDO requirement; respectfully we would expect the City Planning department to have that information*
- b. If the Engineering Department has no files of the easement we do not understand the concern about using the full length of our yard*
- c. If there is no authority for the City to approve as engineering suggests, then is furtherance of this process necessary?*
- d. There is no homeowners association and no documents – see explanation 2(a) & (b) above*
- e. As of Monday May 11, 2020 the bolded information above in Item 6 of the staff comments has been forwarded by Regulo Martinez-Montilva to the City Attorney for further review*

7. The proposed fence should not impede the stormwater drainage way.

Response:

- a. This is good to know*

Fire Department comments

8. The fire department has no comments.

Police Department comments

9. The police Department has no objections.

Date of Application: 3/21/2020

MISCELLANEOUS APPLICATION

Complete, accurate and specific information must be entered. Please Print.

Applicant (Full Legal Name[s]):
Name: Scott & Andrea McElroy
Company: N/A
Mailing Address: 7244 Dover Hill CT
City / State: Franklin WI Zip: 53132
Phone: (414) 870-4504 or (414) 313-2673
Email Address: Scott.McElroy@casece.com or Andrea.McElroy@aurora.org

Applicant is Represented by (contact person) (Full Legal Name[s]):
Name: _____
Company: _____
Mailing Address: _____
City / State: _____ Zip: _____
Phone: _____
Email Address: _____

Project Property Information:

Property Address: 7244 Dover Hill CT Franklin, WI 53132
Property Owner(s): Scott & Andrea McElroy
Mailing Address: 7244 Dover Hill CT
City / State: Franklin, WI Zip: 53132
Email Address: Scott.McElroy@casece.com or Andrea.McElroy@aurora.org

Tax Key Nos: _____
Existing Zoning: _____
Existing Use: Landscape Easement Release
Proposed Use: Same as current but with a decorative fence
Future Land Use Identification: _____

*The 2025 Comprehensive Master Plan Future Land Use Map is available at: <http://www.franklinwi.gov/Home/ResourcesDocuments/Maps.htm>

Miscellaneous Application submittals for review must include and be accompanied by the following:

- ☒ This Application form accurately completed with original signature(s). Facsimiles and copies will not be accepted.
- ☒ Application Filing Fee, payable to City of Franklin: ☒ \$125
- ☒ Legal Description for the subject property (WORD.doc or compatible format).
- ☒ (1) original and six (6) copies of a written Project Narrative, including detailed description of the project.
- ☒ Other information as may be deemed appropriate for the request.

- Upon receipt of a complete submittal, staff review will be conducted within ten business days.
- Submittal of Application for review is not a guarantee of approval.
- Plan Commission, Community Development Authority and/or Common Council review and approval may be required.

The applicant and property owner(s) hereby certify that: (1) all statements and other information submitted as part of this application are true and correct to the best of applicant's and property owner(s)' knowledge; (2) the applicant and property owner(s) has/have read and understand all information in this application; and (3) the applicant and property owner(s) agree that any approvals based on representations made by them in this Application and its submittal, and any subsequently issued building permits or other type of permits, may be revoked without notice if there is a breach of such representation(s) or any condition(s) of approval. By execution of this application, the property owner(s) authorize the City of Franklin and/or its agents to enter upon the subject property(ies) between the hours of 7:00 a.m. and 7:00 p.m. daily for the purpose of inspection while the application is under review. The property owner(s) grant this authorization even if the property has been posted against trespassing pursuant to Wis. Stat. §943.13.

(The applicant's signature must be from a Managing Member if the business is an LLC, or from the President or Vice President if the business is a corporation. A signed applicant's authorization letter may be provided in lieu of the applicant's signature below, and a signed property owner's authorization letter may be provided in lieu of the property owner's signature(s) below. If more than one, all of the owners of the property must sign this Application).

Scott A McElroy
Signature - Property Owner
Scott A. McElroy
Name & Title (PRINT)

Date: 3/23/2020

Andrea McElroy
Signature - Property Owner
Andrea McElroy
Name & Title (PRINT)

Date: 3/23/2020

Scott A McElroy
Signature - Applicant
Scott A. McElroy
Name & Title (PRINT)

Date: 3/23/2020

Andrea McElroy
Signature - Applicant's Representative
Andrea McElroy
Name & Title (PRINT)

Date: 3/23/2020

SCOTT A McELROY
ANDREA L McELROY
7244 DOVER HILL CT
FRANKLIN, WI 53132-9053

2-2566/710

5879

DATE 3-23-2020

PAY TO THE
ORDER OF

City of Franklin

\$125.60

One Hundred Twenty-Five and ^{xx}/₁₀₀

DOLLARS

Security Features
Included.
Details on Back.

BMO



Harris Bank

BMO Harris Bank N.A.
Chicago, Illinois

MEMO

Fence approval

Andrea McElroy

MP

⑆071025661⑆

~~9524408495~~

05879

REQUEST FOR RELEASE OF 30' LANDSCAPE EASEMENT

For: 7244 Dover Hill CT Franklin WI 52132

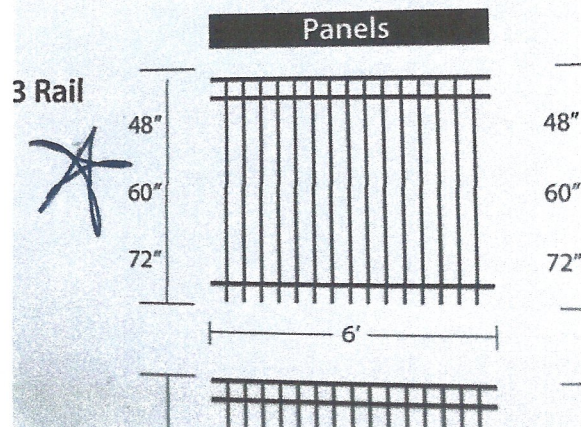
Description of project:

As 23year residents at the above address, we, Andrea and Scott McElroy are respectfully requesting the release of the 30' landscaping easement so we can have the professional company of C & M Fencing install a black 3 rail ornamental aluminum 5' colonial fence as seen below in our backyard.



Universal

1" Rails & 5/8" Pickets



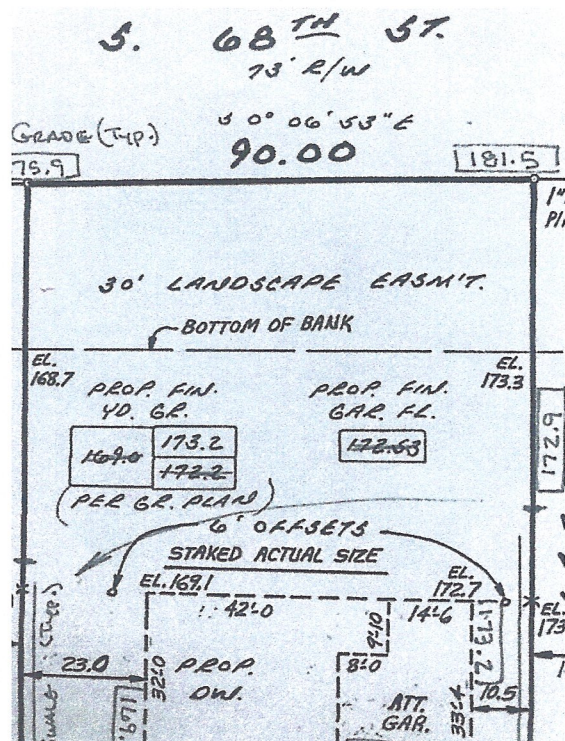
- The fence location will be below in red on the plat survey.

Used Drawing 8/9/95

HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THAT THE A

- **RED** Line showing proposed fence location

- **BLUE** Line represents location of 30' landscaping easement
- **RED** Line represents location of fence request




Justification and reasons for approval of release of landscaping easement:

- Wooded growth over the many years between 68th St, and the back of our property has created natural privacy and buffer from the traffic.
- The 30' landscaping easement/berm takes up nearly 50% of my backyard for which we pay significantly in taxes for.
- The aluminum ornamental fence is aesthetically pleasing and accepted by the nearby neighbors as a high dollar improvement to enclose our yard while increasing a level of privacy for the neighboring houses.
- All properties within this subdivision have been established over 20 years ago with many owners adding, utilizing, and improving their properties to include their property with in landscaping easement space with no negative impact to the neighborhood.
- The ornamental fence request is to protect our family puppy from leaving our backyard into 68th St.
- Section 15.11.0103 of the Unified Development Ordinance (UDO) defines a bufferyard as follows:

An area of land within the boundaries of a lot or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or using trees, shrubs, fences, and/or berms, designed to limit continuously the view and/or sound from the lot or site to adjacent lots or sites. Bufferyards are typically defined by a delineated easement graphically indicated on the face of the Site Plan, Landscape Plan, Certified Survey Map, Subdivision Plat, or Condominium Plat. Bufferyards may be required between zoning districts and/or land uses to eliminate or minimize conflicts between them as set forth in Division 15-3.0300 of this Ordinance.

Lastly, as long-standing citizens and contributors to the Franklin community we feel our request for release of the 30' landscaping and bufferyard space has no negative impact on Franklin or our neighborhood. We respectfully ask that you grant approval.

Scott A. McElroy  Date: 3/23/2020

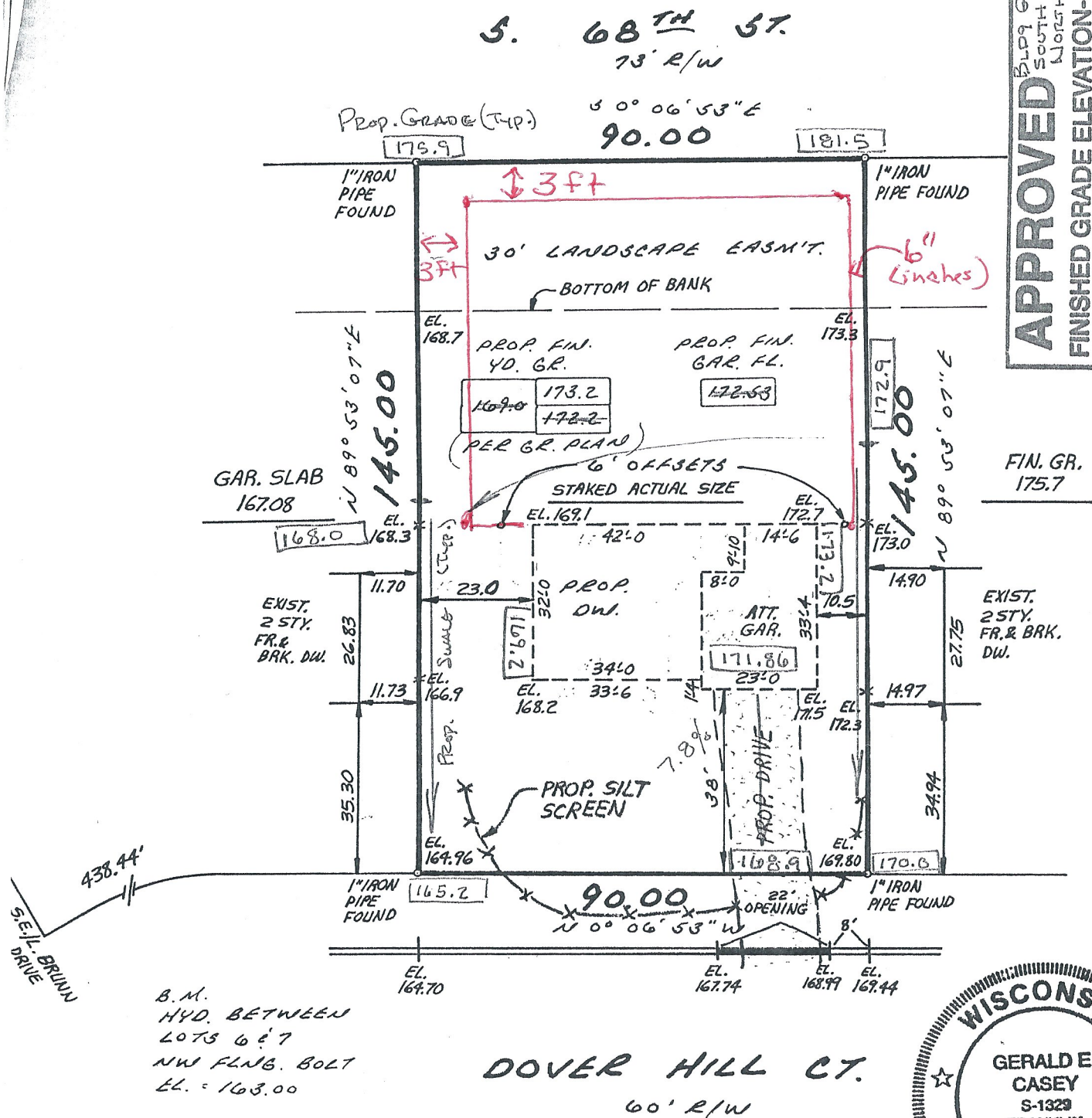
Andrea L. McElroy  Date: 3/23/2020

Spec

LEGAL DESCRIPTION:

August 2, 1995
Drawing Only
Building Staked 8/4/95
Revised Drawing 8/9/95

Survey No. 85550



APPROVED BLOQ GRADE
SOUTH = 173.726
NORTH = 169.720
FINISHED GRADE ELEVATION - 171.84

AT & 2nd Floor CITY OF FRANKLIN DATUM

[Signature] W.L.B. 8-30-95
CITY ENGINEER PER DATE

METROPOLITAN SURVEY SERVICE, INC.

REGISTERED LAND SURVEYORS

9415 W. FOREST HOME AVE., SUITE 202, MALES CORNERS, WI 53130

PH. 529-5380 FAX 529-9787

I HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THAT THE ABOVE MAP IS A TRUE REPRESENTATION THEREOF AND SHOWS THE SIZE AND LOCATION OF THE PROPERTY. ITS EXTERIOR BOUNDARIES, THE LOCATION OF ALL VISIBLE STRUCTURES AND DIMENSIONS OF ALL PRINCIPAL BUILDINGS THEREON, BOUNDARY FENCES, APPARENT EASEMENTS AND ROADWAYS AND VISIBLE ENCROACHMENTS, IF ANY.

THIS SURVEY IS MADE FOR THE EXCLUSIVE USE OF THE PRESENT OWNERS OF THE PROPERTY, AND ALSO THOSE WHO PURCHASE, MORTGAGE, OR GUARANTEE THE TITLE THERETO WITHIN ONE (1) YEAR FROM DATE HEREOF.

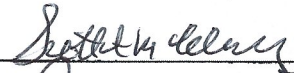

CITY OF FRANKLIN BUILDING PERMIT APPLICATION 9229 W. LOOMIS ROAD, FRANKLIN, WI 53132 Phone (414) 425-0084 Fax (414) 425-7513 Application Forms and Handouts can be found at www.franklinwi.gov			Application No.
			Permit No.
Project Address 7244 S. Dover Hill Ct	Unit or Suite # 	Project/Business Name (if applicable) Fence	
Property Owner's Name Scott & Andrea McElroy		<input checked="" type="checkbox"/> Owner resides or will reside at job address	
Mailing Address 7244 S. Dover Hill Ct Franklin WI		Email Address andrea.mcelroy@yahoo.org	
Contractor Name C + M Fencing		Phone 414-870-4504	
Dwelling Contractor Qualifier Name (1 or 2 family dwellings) N/A		WI DC# / Exp. Date: N/A	
Mailing Address 5039 S Loftus Ct. New Berlin WI 53151		WI DCQ# / Exp. Date: 	
Applicant (if other than owner or contractor) Owner		Email Address: cmfencing@yahoo.com	
Mailing Address 		Phone: 414-338-0951	
City 		Fax: 	
Zip 			
Project Type: <input checked="" type="checkbox"/> 1 & 2 Family <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Institutional <input type="checkbox"/> Multi Family - # of Units _____			
PERMIT TYPE: *THESE ITEMS HAVE PLAN REVIEW FEES DUE WITH APPLICATION - PLEASE SEE RESPECTIVE HANDOUTS.			
<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> New (other than 1 & 2 family) <input type="checkbox"/> Addition <input type="checkbox"/> Alteration <input type="checkbox"/> Demolition <input type="checkbox"/> Building Damage Repair <input type="checkbox"/> Building Move <input type="checkbox"/> Foundation Repair <input type="checkbox"/> Fireplace <input type="checkbox"/> Accessory Building (wood) OR <input type="checkbox"/> Prefab. Storage Encl. (metal, vinyl, resin) (120 sq. ft. or <) Size _____ <input type="checkbox"/> Reroofing <input type="checkbox"/> Complete Tear Off <input type="checkbox"/> Over One Layer - Type of Material _____ <input type="checkbox"/> Residing - Existing Material _____ Replacement Material _____ Additional Project Description: _____ </div> <div style="width: 50%;"> <input checked="" type="checkbox"/> Fence - Type and Height <u>5' - Colonial 3 rail</u> <input type="checkbox"/> Spa/Hot Tub <input type="checkbox"/> On Slab <input type="checkbox"/> On Deck <u>Aluminum Fence</u> <input type="checkbox"/> Pool <input type="checkbox"/> In Ground <input type="checkbox"/> Above Ground (Ht. above ground) _____ <input type="checkbox"/> Deck <input type="checkbox"/> Attached <input type="checkbox"/> Detached <input type="checkbox"/> Pool <input type="checkbox"/> Occupancy - \$200 plus \$7 Technology Fee <input type="checkbox"/> Accessory Bldg./Garage (> 120 sq. ft.) Size _____ on slab *(plan review fee required for > 150 sq. ft.) <input type="checkbox"/> Other _____ </div> </div>			
Estimate "Net" Total Project Cost: \$ _____ Estimate Total Project Cost: \$ _____ ("Net" excludes cost for Plumbing/Electrical/HVAC work)			
Cautionary Statement To Owners Obtaining Building Permits 101.65(lr) of the Wisconsin Statutes requires municipalities that enforce the Uniform Dwelling Code to provide an owner who applies for a building permit with a statement advising the owner that: If the owner hires a contractor to perform work under the building permit and the contractor is not bonded or insured as required under s. 101.654 (2) (a), the following consequences might occur: (a) The owner may be held liable for any bodily injury to or death of others or for any damage to the property of others that arises out of the work performed under the building permit or that is caused by any negligence by the contractor that occurs in connection with the work performed under the building permit. (b) The owner may not be able to collect from the contractor damages for any loss sustained by the owner because of a violation by the contractor of the one- and two- family dwelling code or an ordinance enacted under sub. (1) (a), because of any bodily injury to or death of others or damage to the property of others that arises out of the work performed under the building permit or because of any bodily injury to or death of others or damage to the property of others that is caused by any negligence by the contractor that occurs in connection with the work performed under the building permit.			
CONTACT PERSON (print) Andrea McElroy		PHONE 414-870-4504	
APPLICANT'S SIGNATURE <i>Andrea McElroy</i>		DATE 5/18/2020	
FAILURE TO OBTAIN PERMIT PRIOR TO STARTING WORK FIRST OFFENSE TRIPLE FEES, SUBSEQUENT OFFENSES QUADRUPLE FEES SEPARATE PERMITS REQUIRED FOR PLUMBING, ELECTRICAL AND HVAC			

**OWNER'S ACKNOWLEDGEMENT OF CONDITIONS FOR FENCES LOCATED IN
WE ENERGIES UTILITY EASEMENTS**

Fences may be permitted in We Energies utility easements only subject to the following:

1. The fence shall not be positioned nearer than 3' to any side of a transformer if present.
2. The fence shall not be positioned nearer than 10' to the door of any transformer if present.
***EXCEPTION:** If a gate or easily removable section of fence is positioned directly in front of the door and measures at least as wide as the door to the transformer, the distance may be reduced to 3'.*
3. We Energies will not repair or replace any portion of the fence in the utility easement if the fence needs to be removed for any utility work including clearing obstructions in the easement area.
4. The fence shall not be attached to any utility equipment.
5. "Digger's Hotline" shall be contacted prior to any excavation work.
6. This authorization only applies to We Energies utility easements.

Property Owner(s) hereby acknowledges that he/she has read and understands the above conditions:

Sign  Print Scott McElroy
Sign  Print Andrea McElroy

NOTE: The owner must sign this acknowledgement and include it with their fence permit submittal.